

# STATE OF LOUISIANA LEGISLATIVE AUDITOR

**Council for Conservation and Reinvestment  
of Outer Continental Shelf Revenues  
State of Louisiana  
Baton Rouge, Louisiana**

July 16, 2003



***Financial and Compliance Audit Division***

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**Albert J. Robinson, Jr., CPA**

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**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**  
Baton Rouge, Louisiana

Basic Financial Statements  
and Independent Auditor's Reports  
As of and for the Years Ended  
June 30, 2002 and 2001  
With Supplemental Financial Information

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

July 16, 2003

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

Basic Financial Statements  
and Independent Auditor's Reports  
As of and for the Years Ended  
June 30, 2002 and 2001  
With Supplemental Financial Information

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July 1, 2003

Independent Auditor's Report  
on the Financial Statements

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA  
Baton Rouge, Louisiana**

We have audited the accompanying basic financial statements of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues, a discrete component unit of the State of Louisiana, as of and for the years ended June 30, 2002 and 2001, as listed in the table of contents. These financial statements are the responsibility of management of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues as of June 30, 2002, and June 30, 2001, and the changes in financial position and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

As disclosed in notes 10 and 11, the council has not obtained tax-exempt status from the Internal Revenue Service. However, as reported in Exhibit A and in note 1-B, the council is an extension of the Department of Natural Resources and, based on an analysis by the State of Louisiana's Office of Statewide Reporting and Accounting Policy, has been determined to be a discrete component unit of state government and, as such, would not be subject to taxation.

As discussed in note 1-A to the financial statements, the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues implemented the provisions of Governmental Accounting Standards Board Statement Number 34, *Basic Financial Statements-Management's Discussion and Analysis-for State and Local Governments*, for fiscal year ended June 30, 2001. This results in a change in the format and contents of the basic financial statements.

LEGISLATIVE AUDITOR

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

Audit Report, June 30, 2002

In accordance with *Government Auditing Standards*, we have also issued our report dated July 1, 2003, on our consideration of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues' internal control over financial reporting and our tests of its compliance with certain laws, regulations, and contracts. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

Our audit was made for the purpose of forming an opinion on the accompanying basic financial statements of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues taken as a whole. The accompanying supplemental information schedule of contributions is presented for the purpose of additional analysis and has been subjected to the auditing procedures applied in the audit of the financial statements and, in our opinion, is stated fairly in all material respects in relation to the basic financial statements taken as a whole.

Management's discussion and analysis is not a required part of the basic financial statements, but is supplementary information required by the Governmental Accounting Standards Board. However, this information is not included in the financial statements for fiscal years ended June 30, 2002 or 2001.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Grover C. Austin". The signature is fluid and cursive, with a large, stylized initial "G".

Grover C. Austin, CPA  
First Assistant Legislative Auditor

SRT:EFS:RR:ss

[CCROCSR02]

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

**Statement of Net Assets  
June 30, 2002 and 2001**

	June 30, 2002	June 30, 2001
<b>ASSETS</b>		
Current assets:		
Cash (note 2)	\$120,017	\$39,322
Prepaid items (note 3)	2,150	
Total Assets	122,167	39,322
<b>LIABILITIES</b>		
Current liabilities - accounts payable	73,414	86,107
<b>NET ASSETS</b>		
Unrestricted (Deficit) (note 9)	\$48,753	(\$46,785)

The accompanying notes are an integral part of this statement.

**Statement B****COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA****Statement of Revenues, Expenses, and  
Changes in Net Assets  
For the Years Ended June 30, 2002 and 2001**

	June 30, 2002	June 30, 2001
<b>OPERATING REVENUES</b>		
State grant revenue	\$150,000	\$150,000
Contributions	70,000	20,000
Total operating revenues	<u>220,000</u>	<u>170,000</u>
<b>OPERATING EXPENSES</b>		
Program:		
Professional services	119,487	115,842
Travel	2,890	23,529
Miscellaneous	3,047	3,820
Administrative:		
Professional services	1,700	4,750
Miscellaneous	622	615
Total operating expenses	<u>127,746</u>	<u>148,556</u>
<b>OPERATING INCOME</b>	<u>92,254</u>	<u>21,444</u>
<b>NONOPERATING REVENUES</b>		
Interest income	<u>3,284</u>	<u>2,708</u>
<b>NET INCOME</b>	95,538	24,152
<b>DEFICIT AT BEGINNING OF YEAR - AS RESTATED (note 8)</b>	<u>(46,785)</u>	<u>(70,937)</u>
<b>NET ASSETS (DEFICIT) AT END OF YEAR</b>	<u><u>\$48,753</u></u>	<u><u>(\$46,785)</u></u>

The accompanying notes are an integral part of this statement.



**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

**Statement of Cash Flows  
For the Years Ended June 30, 2002 and 2001**

	June 30, 2002	June 30, 2001
<b>Cash flows from operating activities:</b>		
Cash received from State of Louisiana	\$150,000	\$150,000
Cash received from contributors	70,000	20,000
Cash paid for goods and services	(142,589)	(169,302)
Net cash provided by operating activities	<u>77,411</u>	<u>698</u>
<b>Cash flows from investing activities -</b>		
interest received	<u>3,284</u>	<u>2,708</u>
<b>Net increase in cash</b>	80,695	3,406
<b>Cash at beginning of year</b>	<u>39,322</u>	<u>35,916</u>
<b>Cash at end of year</b>	<u><u>\$120,017</u></u>	<u><u>\$39,322</u></u>
<b>Reconciliation of operating income to net cash provided by operating activities:</b>		
Operating income	\$92,254	\$21,444
Adjustments to reconcile operating income to net cash provided by operating activities:		
Changes in assets and liabilities:		
Decrease (increase) in prepaid items	(2,150)	2,550
Increase (decrease) in accounts payable	<u>(12,693)</u>	<u>(23,296)</u>
Net cash provided by operating activities	<u><u>\$77,411</u></u>	<u><u>\$698</u></u>

The accompanying notes are an integral part of this statement.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

Notes to the Financial Statements  
As of and for the Years Ended  
June 30, 2002 and 2001

**INTRODUCTION**

The Council for Conservation and Reinvestment of Outer Continental Shelf Revenues is a component unit of the State of Louisiana. The council was created as a nonprofit corporation on June 19, 1998. Any state, county, parish, municipality or other state governmental subdivision or state agency may become a member of the corporation upon providing a cash contribution to the corporation of at least \$10,000. Each member shall be entitled to one vote for each \$10,000 in cash (with a maximum of 25 votes per member) that such member has contributed to the corporation. Management of the corporation is vested in a Board of Directors elected by the membership of the corporation. According to the Articles of Incorporation, the purposes of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues are to serve as a forum for representatives of the members to discuss and debate questions of coastal impact as such issues affect coastal states, to promote coastal and land/water policies favorable to the members, including the promotion of policies which stimulate, improve and enhance members coastal resource protection and restoration efforts and land and water conservation efforts, and to engage in mutual efforts aimed at encouraging the federal government to share its offshore mineral revenue with coastal states. Since the council has no employees, all accounting functions are performed by employees of the Department of Natural Resources.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. BASIS OF PRESENTATION**

The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting principles and reporting standards. These principles are found in the *Codification of Governmental Accounting and Financial Reporting Standards*, published by the GASB.

In June 1999, GASB issued Statement Number 34, *Basic Financial Statements-Management's Discussion and Analysis-for State and Local Governments* and related standards. The financial statement presentation required by GASB 34 replaces the fund-group perspective previously required and provides a comprehensive, entity-wide perspective of the council's assets, liabilities, net assets, revenues, expenses, changes in net assets, and cash flows.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

Notes to the Financial Statements (Continued)

**B. REPORTING ENTITY**

GASB Codification Section 2100 has defined the governmental reporting entity to be the State of Louisiana. The council is considered a discrete component unit of the State of Louisiana because the state exercises oversight responsibility and has accountability for fiscal matters as follows: (1) the state has control and exercises authority over financial matters; (2) state appropriations provide the largest percentage of total revenues; and (3) the council primarily serves to increase federal funding to the state. The accompanying financial statements present information only as to the transactions of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues. Annually, the State of Louisiana issues basic financial statements. Those basic financial statements are audited by the Louisiana Legislative Auditor.

**C. BASIS OF ACCOUNTING**

For financial reporting purposes, the council is treated as a special-purpose government engaged only in business-type activities. All activities of the council are accounted for within a single proprietary (enterprise) fund. Basis of accounting refers to when revenues and expenses are recognized in the accounts and reported in the financial statement. Basis of accounting relates to the timing of the measurements made, regardless of the measurement focus applied. The financial statements of the council have been presented using the economic resources measurement focus and the accrual basis of accounting. Under the accrual basis, revenues are recognized when earned, and expenses are recorded when an obligation has been incurred.

The council applies all GASB pronouncements as well as Financial Accounting Standards Board (FASB) statements and interpretations issues on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements.

**D. BUDGET PRACTICES**

The council does not prepare an annual budget.

**E. CASH**

Cash consists of demand and savings deposits. Under state law, the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues may deposit funds within a fiscal agent bank organized under the laws of the State of Louisiana, the laws of any other state in the Union, or the laws of the United States. Furthermore, the council may invest in time certificates of deposit of state banks organized under the laws of the State of Louisiana, national banks having their principal offices in Louisiana, in savings accounts or shares of savings and loan associations and savings banks, and in share accounts and share certificate accounts of federally or state-chartered credit unions.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

**F. CAPITAL ASSETS**

The council has no capital assets.

**2. CASH**

Cash (book balances) is composed of the following:

	June 30, 2002	June 30, 2001
Cash in demand accounts	(\$930)	\$59
Interest-bearing savings deposits	120,947	39,263
Total	<u>\$120,017</u>	<u>\$39,322</u>

Under state law, these deposits must be secured by federal deposit insurance or the pledge of securities owned by the fiscal agent bank. The market value of the pledged securities plus the federal deposit insurance must at all times equal the amount on deposit with the fiscal agent. These pledged securities should be held in the name of the council in a holding or custodial bank that is mutually acceptable to both parties. At June 30, 2002 and 2001, the council has \$121,017 and \$39,322, respectively, in deposits (collected bank balances). These deposits are secured from risk by \$100,000 of federal deposit insurance (GASB Risk Category 1). At June 30, 2002, \$21,017 in deposits were unsecured (GASB Risk Category 3).

**3. PREPAID ITEMS**

Prepaid expenses at June 30, 2002, consist of payments for exhibit space at a convention.

**4. LEASE OBLIGATIONS**

The council leased an apartment in Washington, D.C., on a month-to-month basis. Rental payments during the year ended June 30, 2001, totaled \$12,800. The council has no lease obligations at June 30, 2002.

**5. DONATED SERVICES**

The council receives donated services from employees of the Louisiana Department of Natural Resources. No amounts have been recognized in the accompanying statements of activities.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**  
Notes to the Financial Statements (Concluded)

**6. LITIGATION AND CLAIMS**

No litigation is pending against the council at June 30, 2002.

**7. RELATED PARTY TRANSACTIONS**

The council was not involved in any related party transactions for the two-year period ended June 30, 2002.

**8. ADJUSTMENT TO NET ASSETS AT  
BEGINNING OF THE YEAR**

The adjustment to the beginning net asset balance of fiscal year 2001, totaling \$468, related to an overstatement of payables and expenditures in the prior year.

**9. NET ASSETS (DEFICIT)**

As of June 30, 2002, the council has unrestricted net assets of \$48,753. However, as of June 30, 2001, the council had a deficit of \$46,785. This deficit was because fewer contributions were received in fiscal year 2001 and fiscal year 2000 payables were liquidated.

**10. SUBSEQUENT EVENTS**

In October 2000, the council submitted an application for tax exempt status to the Internal Revenue Service (IRS). The IRS requested additional information regarding the application from the council. However, this information was never provided. In March 2003, the council decided to discontinue its pursuit of tax exempt status based upon advice of legal counsel. In May 2003, the council obtained the advice of a CPA firm and decided to resubmit its application for tax exempt status. As of the date of this report, the council's tax status is unknown.

**11. GOING CONCERN**

These financial statements are presented on the basis that the council is a going concern and a discretely presented component unit of the State of Louisiana. The accompanying financial statements have been prepared assuming that the council will have no liability for unpaid taxes, penalties, and interest. In the prior audit report, dated December 26, 2000, it was disclosed that the council's tax liability for the two years ended June 30, 2000, may be as much as \$182,137. However, such a tax liability would exceed the council's annual revenues and the council has no alternative source of income with which to pay the taxes, penalties, and interest. A potential tax liability for the period July 1, 2000, through June 30, 2002, has not been determined.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA  
SUPPLEMENTAL INFORMATION SCHEDULE  
Inception Through June 30, 2002**

**SCHEDULE OF CONTRIBUTIONS**

A major source of funding for the council is contributions received from local governmental entities in Louisiana, governmental entities in Alaska, certain nonprofit organizations, and a private corporation.

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

**Schedule of Contributions  
Inception Through June 30, 2002**

Contributor	Amount	
Jefferson Parish Department of Environmental Affairs	\$10,000	
Plaquemines Parish Government	10,000	
St. Bernard Parish Government	10,000	
Assumption Parish Police Jury	10,000	
Greater Lafourche Port Commission	30,000	
St. James Parish Council	5,000	
Parish of St. Charles	10,000	
St. Mary Parish Government	10,000	
Terrebonne Parish Consolidated Government	10,000	
LA 1 Coalition	10,000	
Vermilion Parish Police Jury	10,000	
Livingston Parish Council	10,000	
Fiscal Year 1998 - 1999		\$135,000
North Slope Borough, Barrow, Alaska	10,000	
Association of Levee Boards of Louisiana	1,000	
State of Alaska	20,000	
St. Tammany Parish Government	10,000	
St. James Parish Council	10,000	
Fiscal Year 1999 - 2000		51,000
Dredging Contractors of America, Inc.	20,000	
Fiscal Year 2000 - 2001		20,000
St. James Parish Council	10,000	
Livingston Parish Council	10,000	
Jefferson Parish Department of Environmental Affairs	10,000	
Cameron Parish Police Jury	10,000	
Greater Lafourche Port Commission	10,000	
St. Charles Parish	10,000	
St. Mary Parish Government	10,000	
Fiscal Year 2001 - 2002		70,000
Total Contributions From Inception Through June 30, 2002		<u>\$276,000</u>

**OTHER REPORT REQUIRED BY**  
***GOVERNMENT AUDITING STANDARDS***

The following pages contain a report on compliance with laws and regulations and on internal control required by *Government Auditing Standards*, issued by the Comptroller General of the United States. The report is based solely on the audit of the financial statements and includes, where appropriate, any reportable conditions and/or material weaknesses in internal control or compliance matters that would be material to the presented financial statements.





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July 1, 2003

Report on Compliance and on Internal Control Over  
Financial Reporting Based on an Audit of the Basic  
Financial Statements Performed in Accordance  
With Government Auditing Standards

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**  
Baton Rouge, Louisiana

We have audited the accompanying basic financial statements of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues, a discrete component unit of the State of Louisiana, as of and for the years ended June 30, 2002 and 2001, and have issued our report thereon dated July 1, 2003. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Compliance**

As part of obtaining reasonable assurance about whether the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues' basic financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*.

**Unauthorized Creation of Separate Legal Entity**

The Secretary of the Department of Natural Resources (DNR) had no statutory authority to create and operate the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues (council) as a separate legal entity. Although Louisiana Revised Statute (R.S.) 36:354, which contains the powers and duties of the Secretary, is broad, there is no specific grant of authority to establish a separate entity to act as an agent for DNR. In addition, since the council and DNR missions overlap and DNR employees administrate the council, the council's operations could be performed within DNR.

## LEGISLATIVE AUDITOR

### COUNCIL FOR CONSERVATION AND REINVESTMENT OF OUTER CONTINENTAL SHELF REVENUES STATE OF LOUISIANA

Compliance and Internal Control Report

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The council's creation has allowed public funds to be maintained and expended without complete consideration of applicable state laws and regulations. Furthermore, the council may have incurred an unknown liability for federal income taxes, penalties, and interest. There would have been no tax liability if council activities had been performed within DNR.

Management should consider abolishing the nonprofit corporation and operating the council's activities as a part of DNR. Management concurred in part with the finding noting that R.S. 36:354 is broad enough to include the creation of a separate legal entity. However, management agreed that the council and DNR's missions overlap and that the operations of the council could be performed within DNR (see Appendix A, pages 1-2).

**Additional Comments:** In the finding response, management noted concerns that contributions may not be restricted to accomplishing the council's mission if collected and managed by DNR. However, R.S. 36:354(B)(7) provides that the secretary of DNR has the authority to accept gifts or donations and use them in accordance with any conditions required by the contributor.

Although the council may have considered state laws and/or regulations in the expenditure of public funds, the finding that follows describes instances of non-compliance with state laws and/or regulations. Furthermore, transferring the files to a local government member may not alleviate the council of its responsibility to comply with state laws and regulations.

#### **Noncompliance With State Laws and Regulations**

The council did not comply with all applicable state laws and regulations governing the deposit or disbursement of public funds. The council's funding sources are public funds from state and local governments and there is no legal authority for converting these funds to private funds. Furthermore, since the secretary of DNR created the council, the council is an extension of DNR and is subject to laws and regulations affecting state agencies.

The audit of the council's activities determined noncompliance with the following laws and regulations:

#### CASH

- The council did not obtain written approval of the Cash Management Review Board before opening its two accounts--a checking account and a savings

## LEGISLATIVE AUDITOR

### **COUNCIL FOR CONSERVATION AND REINVESTMENT OF OUTER CONTINENTAL SHELF REVENUES STATE OF LOUISIANA**

Compliance and Internal Control Report

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account. R.S. 39:372 requires all banking and checking accounts opened by state agencies to have written approval of the Cash Management Review Board.

- During 14 of the 24 months audited, the council's savings account balance exceeded the amount of Federal Depositors Insurance Corporation (FDIC) insurance of \$100,000. Unsecured funds of the council totaled as much as \$111,483. R.S. 49:321 requires deposit balances in excess of the amounts insured by FDIC to be guaranteed by financial institutions by securities pledged to the agency.

#### CONTRACTS

- The council uses the services of a Washington, D.C., law firm but does not have a current written contract with the firm. The council's most recent written contract with the firm expired on December 31, 1998. Although the contract may have been verbally extended beyond December 31, 1998, such extensions would not have been valid beyond June 30, 2001. R.S. 39:1514 states that contracts for professional services may not be entered into for periods of more than three years. In addition, without a written contract, the department has no recourse if there is a disagreement regarding the scope or cost of the services. During fiscal years 2001 and 2002, the council paid the firm approximately \$206,600.
- Neither the attorney general nor the Office of Contractual Review approved the professional service contract mentioned above. R.S. 49:258 requires any appointment of private legal counsel to be made by the attorney general with the concurrence of the commissioner of administration. Also, R.S. 39:1482 and 39:1497 require contracts for professional services to be approved by the Office of Contractual Review.
- The council entered into a contract for consulting services with Pacific Visions Communications without the approval of the Office of Contractual Review. R.S. 39:1482 and 39:1497 require contracts for consulting services to be approved by the Office of Contractual Review. Furthermore, the contract was not awarded via the request for proposal process although the total amount of the contract was \$100,000. R.S. 39:1496 states that contracts for consulting services that have a total maximum compensation of \$50,000 or more shall be awarded through a request for proposal process.

## LEGISLATIVE AUDITOR

### **COUNCIL FOR CONSERVATION AND REINVESTMENT OF OUTER CONTINENTAL SHELF REVENUES STATE OF LOUISIANA**

Compliance and Internal Control Report

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#### TRAVEL

- The council expended funds for travel without complete consideration of state travel regulations. R.S. 39:231 states that rules governing travel by state employees shall be promulgated by the commissioner of administration. During fiscal years 2001 and 2002, the council expended approximately \$18,800 in travel expenditures on behalf of DNR employees, which included an apartment in Washington, D.C., which cost the council \$1,600 per month.

Management should identify all applicable state laws and regulations relating to the management and use of its funds and develop policies and procedures to ensure compliance with those laws and regulations. Management did not concur with the finding noting that the council was operating separate from DNR and was not subject to state laws and regulations (see Appendix A, pages 3-5).

#### **Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues' internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on internal control over financial reporting. We noted one matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. The matter relates to the council's operation and its limited staff that precludes an adequate segregation of duties and other features of an adequate system of internal control, although to employ such controls may not be cost beneficial. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the council's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we consider the inadequate segregation of duties, described previously, to be a material weakness.

**LEGISLATIVE AUDITOR**

**COUNCIL FOR CONSERVATION AND REINVESTMENT  
OF OUTER CONTINENTAL SHELF REVENUES  
STATE OF LOUISIANA**

Compliance and Internal Control Report

July 1, 2003

Page 5

This report is intended solely for the information and use of the council and its management and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Grover C. Austin". The signature is fluid and cursive, with a large, stylized initial "G".

Grover C. Austin, CPA  
First Assistant Legislative Auditor

SRT:EFS:RR:ss

[CCROCSR02]

## Appendix A

### Management's Corrective Action Plans and Responses to the Findings and Recommendations

Chairman of the Board  
Jack C. Caldwell, Secretary  
Louisiana Department of Natural Resources



Program Manager  
Robert Szabo  
Washington, D.C. Office

July 1, 2003

Mr. Ernest F. Summerville, Jr., CPA  
Office of Legislative Auditor  
Post Office Box 94397  
Baton Rouge, LA 70804

Dear Mr. Summerville:

In response to audit findings outlined in your correspondence of May 22, 2003, the following comments are offered.

The mission of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues is to support enactment of bills introduced in Congress that propose to reinvest revenues from federal oil and gas development on the outer continental shelf by distributing the funds to state, county and local governments.

#### **Unauthorized Creation of Separate Legal Entity**

We do not concur in whole with the finding that the Secretary of the Department of Natural Resources (DNR) has no statutory authority to create and operate the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues (Council) as a separate legal entity. We believe that La. R.S. 36:354, which contains the powers and duties of the Secretary, is broad enough to include the creation of a separate legal entity, in that the separate entity allows the secretary to further the mission of the department. We do agree that the Council and DNR's missions overlap and that the operations of the Council could be performed within DNR; however, this would not be acceptable to contributors of the Council (consisting of local governments within Louisiana, the State of Alaska, and private entities) in that some would not have contributed to a state agency due to concerns of the possibility of state budget cuts or intervention by the State's legislature by directing funds to other projects that would not benefit the Council or its mission. Further, the Council expects to receive funds from other states (Texas, Mississippi and Alabama) as well. For these practical reasons, the Council cannot operate within the DNR. However, in response to your audit comments, we intend to turn over operation and maintenance of the Council to the current President. We anticipate a full transition to be complete by August 1, 2003.

#### **Council for Conservation and Reinvestment of Outer Continental Shelf Revenues**

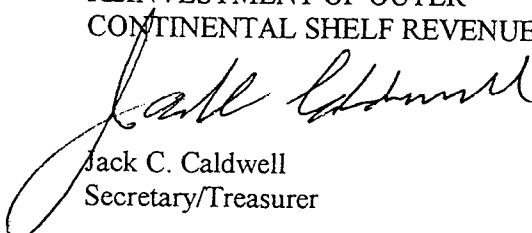
Department of Natural Resources • Office of the Secretary • P.O. Box 94396 • Baton Rouge, Louisiana 70804-9396  
Louisiana phone 225-342-2710 or 225-342-4844 • Washington, D.C. phone 202-298-1920  
Louisiana fax 225-342-3442 • [www.OCSrevenue.org](http://www.OCSrevenue.org) • Washington, D.C. fax 202-338-2416

- Expenditures of the Council were handled in the most conservative manner, and always in consideration of state laws and/or regulations, although it was at all times a non-profit organization maintained separate and apart from the DNR. This will no longer be an issue once the files are transferred, so no plan of action is expected.
- The issue regarding federal income taxes, penalties, and interest resulted from a decision to cease attempts with the IRS to certify tax exemption. This decision has been readdressed, and in fact a separate CPA firm recommended reopening the issue with the IRS and to continue with the request to confirm tax exemption. The Board will contract with a new CPA firm and we anticipate a formal agreement will be finalized by August 1, 2003.

Considering the above comments and the comments submitted in the audit findings, the Secretary/Treasurer of the Council intends to forward all Council materials to the current President, who will operate and maintain all matters involving the Council through her office. We anticipate a full transition to be complete by August 1, 2003.

Note: As recommended during a May 20<sup>th</sup> meeting with Robbie Robinson and Stacey Talley discussing the May 5, 2003 opinion of Jenifer Schaye, and due to the uncertainty of the votes afforded the State of Louisiana through its annual contribution of \$150,000, the Council also intends to seek guidance from the Ethics Board as to whether or not the secretary can remain an active and voting member of the board of directors, or even a member of the corporation. The votes are authorized through the Council's Articles of Incorporation, which state, in part "...Each member shall be entitled to one vote for each \$10,000 in cash (with a maximum of 25 votes per member) that such member has contributed to the corporation." This question will be brought to the Ethics Board within the next two weeks, or by July 14, 2003.

Respectfully submitted,  
COUNCIL FOR CONSERVATION AND  
REINVESTMENT OF OUTER  
CONTINENTAL SHELF REVENUES



Jack C. Caldwell  
Secretary/Treasurer

cc: Robbie Robinson, Office of the Legislative Auditor, Director of Financial Audit  
Stacey Talley, Office of the Legislative Auditor, Senior Auditor





July 1, 2003

Mr. Ernest F. Summerville, Jr., CPA  
Office of Legislative Auditor  
Post Office Box 94397  
Baton Rouge, LA 70804

Dear Mr. Summerville:

The mission of the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues is to support enactment of bills introduced in Congress that propose to reinvest revenues from federal oil and gas development on the OCS by distributing the funds to state, county and local governments.

#### **Noncompliance with State Laws and Regulations**

We do not concur in whole that the Secretary of the Department of Natural Resources (DNR) did not have authority to establish the Council for Conservation and Reinvestment of Outer Continental Shelf Revenues (Council). We believe that La. R.S. 36:354, which contains the powers and duties of the Secretary, is broad enough to include the creation of a separate legal entity, in that the separate entity allows the secretary to further the mission of the department.

#### **CASH**

- Regarding the finding that the Council did not obtain written approval of the Cash Management Review Board prior to opening its two accounts (checking and savings), we believe that this law applies only to state agencies. The Council was operating separate from DNR, it is not a state agency, and therefore not subject to seeking such approval.

#### **CONTRACTS**

- The contract for services of a Washington, D.C. firm was, in fact, extended verbally; however, the Council is in the process of formally extending the contract. We contend that the Council's contracts are not subject to state law; however, before this contract was finalized, the Secretary of the DNR, along with other DNR employees met with employees of the Division of Administration to seek advice, as well as informal approval of the contract.

#### **Council for Conservation and Reinvestment of Outer Continental Shelf Revenues**

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Again, we do not believe that the Council is bound by R.S. 39:1482, which require contracts for professional services to be approved by the Office of Contractual Review.

The Council was operating separate from DNR, it was not a state agency, and therefore not subject to receiving such approval.

#### TRAVEL

- As previously stated, we believe that the Council could expend funds outside of state laws and regulations in that it was at all times separate from the DNR. However, to the extent that the Council did consider state laws and regulations, consideration of payment of the apartment in Washington, D.C. was compared with the cost of a hotel for the time needed by the employee to conduct necessary business and the result was considerably less to rent an apartment. A similar request had been approved by the Commissioner of Administration related to funds that were reimbursed through the DNR.

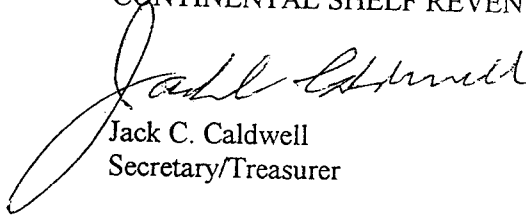
To summarize, the Council is not an agent of DNR, but a private non-profit corporation established to effectuate certain public purposes, as delimited in the corporation's Articles of Incorporation:

"This corporation is organized and it shall be operated exclusively for nonprofit purposes, with its primary purposes being: 1) to serve as a forum for representatives of the members to discuss and debate questions of coastal impact as such issues affect coastal states; 2) to promote coastal and land/water policies favorable to the members, including the promotion of policies which stimulate, improve and enhance members' coastal resource protection and restoration efforts and land and water conservation efforts; and 3) to engage in mutual efforts aimed at encouraging the federal government to share its offshore mineral revenue with coastal states. The corporation may make financial contributions to organizations that may qualify as exempt organizations under Section 501(c)(6) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law). Notwithstanding any of the above, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this corporation."

These purposes could have been pursued by DNR acting alone, but would not have the synergistic effects achievable through combining with other governmental entities, both in Louisiana and elsewhere in the nation, on an open-ended basis. A non-profit corporation, with membership open to all governmental entities, and voting power distributed on the basis of cash contributions, was the most feasible form of organization, as borne out by the success of the enterprise. It has been understood at all times that expenditure of the Council's funds, derived in part from Louisiana's contribution, in furtherance of its declared public purposes, is subject to audit by the legislative auditor. However, the Council is not subject to state regulations regarding contracting procedures, travel expenses, etc., and this was confirmed by the Division of Administration beforehand.

In consideration of the audit letter, the Council has made arrangements for all matters to be transferred to its current President by August 1, 2003.

Respectfully submitted,  
COUNCIL FOR CONSERVATION AND  
REINVESTMENT OF OUTER  
CONTINENTAL SHELF REVENUES



Jack C. Caldwell  
Secretary/Treasurer

cc: Robbie Robinson, Office of the Legislative Auditor, Director of Financial Audit  
Stacey Talley, Office of the Legislative Auditor, Senior Auditor